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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/864,927	05/24/2001	Lee E. Cannon	29757/ AG32-CIP	2424
4743	7590	10/04/2004	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP			CHERUBIN, YVESTE GILBERTE	
6300 SEARS TOWER			ART UNIT	PAPER NUMBER
233 S. WACKER DRIVE			3713	
CHICAGO, IL 60606				

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/864,927	<b>Applicant(s)</b> CANNON ET AL.	
	<b>Examiner</b> Yveste G. Cherubin	<b>Art Unit</b> 3713	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34,35,38 and 55-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34,35,38 and 55-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the US Application No. 09/864,927 filed June 17, 2004.

#### ***Claim Objections***

2. Claims 55, 61 are objected to because of the following informalities:

Page 3, claim 55, line 2, the word "of" needs to be inserted between the words 'after a number' and 'plays'.

Page 3, claim 61, lines 1-2, the word "at" between the words 'comprising playing the' and 'tournament game' needs to be deleted.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34-35, 38, 55-58, 60-66, are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210 - of record) in view of Giacalone, Jr. (US Patent No. 5,758,875).

Regarding claim 34, Pascal discloses a system and method of tournament gaming, see abstract, 1<sup>st</sup> line, comprising providing a plurality of gaming devices (10, 12) adapted for tournament play and configured to play at least one game of chance, initiating a

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tournament game of chance on at least one gaming device of a plurality of gaming devices, see abstract, lines 8-11. Pascal fails to disclose playing the tournament game of chance at a first permitted rate of play and changing the rate of play to a second permitted rate of play to at least one selected game outcome of the at least one game of chance. Giacalone teaches a slot machine capable of playing a game of chance at a first permitted rate of play and changing the rate of play to a second permitted rate of play in response to at least one selected game outcome of the at least one game of chance, see abstract, 3:13-46, 4:7-24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the feature cited above as taught by Giacalone into the Pascal type system in order to adapt play rate in accordance to player interaction.

Regarding claim 35, Giacalone teaches adjusting the rate of play in response to occurrence of at least one selected game outcome, 3:66-4:1-24. Accordingly, reverting the second permitted rate of play to the first permitted rate of play in response to occurrence of at least one selected game outcome is taught by Giacalone since the play rate can be adjusted up or down.

Regarding claim 38, Giacalone teaches the second permitted rate of play reverting to the first permitted rate of play in response to expiration of a predetermined interval of time, 3:17-21, 55-65.

Regarding claim 55, Giacalone teaches the second permitted rate of play reverting to the first permitted rate of play after a number of plays are initiated on the at least one gaming device, 3:17-21, 55-65.

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Regarding claims 56-57, Giacalone teaches the second permitted rate of play being faster or slower than the first permitted rate of play, 3:66-4:1-7.

Regarding claim 58, Giacalone teaches the at least one game of chance being at least one of a reel-type game and a card game, 1:12-16.

Regarding claim 60, Giacalone teaches when the player reaches the preset minimum play rate, further adjustment in that direction is limited, 3:38-42. This section is read as playing the game of chance at a rate of play no less than an automated minimum rate of play. Accordingly, claim 60 is taught by Giacalone.

Regarding claim 61, Pascal teaches as playing the game of chance at a rate of play no less than an automated minimum rate of play when a player does not initiate play of the tournament game of chance within a predetermined time interval, page 7, lines 6-10.

Regarding claim 62, Pascal in view of Giacalone disclose the claimed invention except for the automated minimum rate of play comprising a percentage of a standard rate of play of the at least one game of chance. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above cited feature since it is known in the art that minimum, by definition, is the smallest number in a finite set of numbers and has a value that is less than any other value of a function over a specific interval and average/standard, by definition, is the intermediate between two extremes. Mathematically speaking, having a minimum rate comprising the percentage of a standard rate is known and would have been obvious.

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Regarding claim 63, Giacalone teaches sampling rates of play of the at least one game of chance on at least some of the plurality of gaming devices and deriving the standard/average rate of play from the sampling, 3:14-17.

Regarding claim 64, Pascal teaches qualifying for play in the tournament game by tendering a wager (26, 42), see abstract, lines 6-8, page 1, lines 12-14.

Regarding claim 65, Pascal teaches qualifying for play in the tournament game by playing (current players) the at least one game of chance on the at least one gaming device, page 4, lines 1-3, page 5, lines 18-21, 30-38.

Regarding claim 66, Pascal in view Giacalone disclose the claimed invention as substantially as discussed above. Pascal further teaches various ways (parameters) one can qualify for the tournament, but fails to teach qualifying for play in response to at least one selected game outcome. Configuring the system for such feature would have been an obvious matter of design choice. Such configuration would help determine the best players for tournament eligibility.

Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal in view of Giacalone, Jr. as applied above, and further in view of Okada (US Patent No. 4,508,345).

Regarding claim 59, Pascal in view of Giacalone disclose the claimed invention as substantially as discussed above. Pascal in view of Giacalone fail to disclose automatically initiating play at the second permitted rate of play irrespective of player input when the second permitted rate of play is permitted. Okada teaches a slot

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machine capable of providing variable play game and automatically initiating play at the second permitted rate of play irrespective of player input when the second permitted rate of play is permitted, 2:19-35. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above feature as taught by Okada into the Pascal in view of Giacalone type system in order reduce non-play time between games.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 34-35, 38, 55-66 have been considered but are moot in view of the new ground(s) of rejection.

### ***Prior Art References***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. EP No. 0 609 970 to Heidel, which teaches gaming machine operation speed control.
- b. US Patent No. 5,472,197 to Gwiasda et al. which teaches slot machine arm switch controller.
- c. US Patent No. 4,373,727 to Hooker et al. which teaches variable speed gaming device.
- d. US Patent No. 4,114,882 to Mau which teaches variable velocity control for playing images for a manually controlled electronic video display game.

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e. US Patent No. 6,315,662 to Jorasch et al. which teaches system and method for automatically initiating game play on an electronic gaming device.

f. US Patent No. 4,440,036 to Hooker et al. which teaches gaming apparatus having manually controllable operating speed.

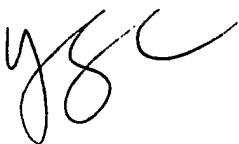
### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ygc



JOHN M. HOTALING, II  
PRIMARY EXAMINER

